

In the
Indiana Supreme Court



IN THE MATTER OF THE)
)
APPROVAL OF LOCAL RULES)
)
FOR SCOTT COUNTY)

Case No. 72S00-11 **07**-MS- **415**

ORDER APPROVING AMENDED LOCAL RULES

The judges of the Scott Circuit and Superior Courts request the approval of amended local rules for appointment of special judges in accordance with Ind. Trial Rule 79 and Ind. Criminal Rule 2.2. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Scott Circuit and Superior Courts, this Court finds that the proposed rule amendment, LR72-TR79-9 and LR72-CR2.2-1, comply with the requirements of Ind. Trial Rule 79 and Ind. Criminal Rule 2.2, and accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that Scott County Local Rules, LR72-TR79-9 and LR72-CR2.2-1, set forth as an attachment to this Order, are approved effective July 1, 2011, provided further that the rule shall be posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. Roger L. Duvall, Jr., Scott Circuit Court, One East McClain Avenue, #212, Scottsburg, IN 47170-1848; the Hon. Marsha Owens Howser, Scott Superior Court, One East McClain Avenue, #252, Scottsburg, IN 47170-1848; to the Clerk of the Scott Circuit and Superior Courts; and to the Division of State Court Administration. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the Scott Circuit and Superior Courts is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and

attachment for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 1st day of July, 2011.

RT Shepard
Randall T. Shepard
Chief Justice of Indiana

LR72-TR79-9
APPOINTMENT OF SPECIAL JUDGES

- A. Selection of Assignment Judge.** On or before October 1st of each year, the Judges of the Circuit and Superior Courts of Scott County shall meet with the presiding judges of Administrative District 23 for the purpose of selecting a judge designated as the assignment judge who shall serve the Administrative District for a period of twelve (12) months.
- B. Section H Appointments.** In the event it becomes necessary to appoint a special judge under Section H of Trial Rule 79 of the Indiana Rules of Trial Procedure, the judge before the case is pending shall send notice of the need of the appointment of a special judge to the Administrative District's assignment judge who shall then make such assignment within five (5) days of receiving said notice.
- C. Method of Assignment.** The Administrative District's assignment judge shall select special judges from a roster of the available judges in the Administrative District. The assignments shall be in a sequential order beginning with the name of the judge following the last judge so assigned. If, however, a judge is otherwise disqualified to hear a particular case, that judge shall be deemed to be the next in sequence until assigned a case. The assignment judge shall maintain a record of all assignments and shall issue a summary report of the assignments on a quarterly basis.
- D. Roster of Available Judges.** The roster of available judges in Administrative District 23 shall be maintained by Court designation in the following sequential order and shall include senior judges as available.
- | | |
|----------------------|---|
| (1) Clark Circuit #1 | (6) Floyd Superior #1 |
| (2) Clark Circuit #2 | (7) Floyd Superior #2 |
| (3) Clark Circuit #3 | (8) Floyd Superior #3 |
| (4) Clark Circuit #4 | (9) Scott Circuit |
| (5) Floyd Circuit | (10) Scott Superior |
| | (11) Senior Judges who agree to serve as
Special Judge |
- E. Appointment Order.** Upon selecting a special judge, the assignment judge shall prepare an Order of Appointment and forward said Order to the judge before whom the case is pending and enter an Order of Appointment and forward a copy of the Order to the special judge and the attorneys of record.

- F. Acceptance of Jurisdiction.** The Order of Appointment, when entered on the CCS by the judge before whom the case is pending, shall constitute acceptance of jurisdiction by the appointed special judge unless the judge is otherwise disqualified, and no special appearance, oath or additional evidence of acceptance shall be required.
- G. Form of Order.** The Order of Appointment shall be in the following form:

IN THE _____ COURT FOR _____ COUNTY

STATE OF INDIANA

(Caption)

ORDER OF APPOINTMENT

Under the provisions of Trial Rule 79(H) of the Indiana Rules of Trial Procedures, the Honorable _____ of the _____ Court of _____ County is hereby appointed to serve as special judge in the above-captioned case.

SO ORDERED AND ASSIGNED THIS _____ DAY OF _____, _____ BY THE ASSIGNMENT JUDGE FOR THE 23RD JUDICIAL DISTRICT.

Assignment Judge

- H. Implementation of Rule.** In the event a selected Judge does not accept an appointment to serve as a special Judge under the provisions of section (D), (E) or (F) of Trial Rule 79 of the Indiana Rules of Trial Procedure, the judge before whom the case is pending shall notify the assignment judge of the need for an appointment of a special judge under this local rule.
- I. Certification to Supreme Court.** If, under the provisions of this rule, no judge is eligible to serve as a special judge in a case, the assignment judge shall notify the judge before whom the case is pending who shall then certify such fact to the Indiana Supreme Court for the appointment of a special judge.
- If the judge before whom the case is pending is of the opinion that the particular circumstances of a case warrants selection of a special judge by the Indiana Supreme Court, said judge shall certify such facts to the Indiana Supreme Court for the appointment of a special Judge. Under such circumstances this Rule shall not be implemented unless the Indiana Supreme Court declines to appoint a special Judge.

LR72-CR2.2-1
ASSIGNMENT OF CRIMINAL CASES

The Courts of Scott County, Indiana, adopt the following rules for the assignment of criminal cases and the selection of special judges in criminal cases:

(A) All cases wherein the most serious charge is a Class C Felony or above shall be filed in Circuit Court.

(B) All cases wherein the person is charged under Indiana Code title 9, Motor Vehicles, shall be filed in Superior Court.

(C) All cases wherein the factual basis for the criminal charges, also, is the factual basis in the Circuit Court under Indiana Code 31-34 et. seq., Child In Need of Services, shall be filed in Circuit Court.

(D) All cases wherein a person is charged under Indiana Code Title 20, Compulsory School Attendance Law, shall be filed in Circuit Court.

(E) All juvenile delinquency cases shall be filed in Circuit Court and if there is a waiver from juvenile court into adult court, the case shall be filed in Circuit Court.

(F) All other criminal cases and infractions shall be filed in Superior Court.

(G) Any cases which may be joined by statute shall be treated as one case for purposes of determining which court shall be selected. The highest charge filed shall determine selection.

(H) When there is a recusal by the sitting Judge or when a motion for change of Judge has been granted, the Clerk shall assign a judge randomly from the following list of sitting and elected judges of the following Courts:

1. Jennings Circuit Court
2. Jefferson Circuit Court
3. Jefferson Superior Court
4. Washington Circuit Court
5. Washington Superior Court
6. Jackson Superior Court
7. Jennings Superior Court
8. Jackson Superior Court 2

(I) In the event a case is dismissed and refiled, the Judge last having jurisdiction in the dismissed case shall be the judge in the new case.

- (J) Criminal cases in the Scott Circuit Court or the Scott Superior Court for which the respective Judge has a conflict may be transferred to or addressed by the other court or referred to a Senior Judge for further disposition or may be assigned to a new Judge pursuant to Section H of this Rule.